

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

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IN RE: SMITH & NEPHEW  
BIRMINGHAM HIP RESURFACING  
(BHR) HIP IMPLANT PRODUCTS  
LIABILITY LITIGATION

MDL-17-md-2775  
Master Docket No. 1:17-md-2775

ADRIENNE MILLER,

JUDGE CATHERINE C. BLAKE

Plaintiff,

**DIRECT FILED SHORT FORM  
COMPLAINT  
PURSUANT TO CASEMANAGEMENT  
ORDER NO. 5**

v.

Civil Action No.: \_\_\_\_\_

SMITH & NEPHEW, INC.,

Defendant.

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**SHORT FORM COMPLAINT**

1. Plaintiff, Adrienne Miller, states and brings this civil action in MDL No. 2775, entitled *In re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation*. Plaintiff is filing this Short Form Complaint pursuant to CMO No. 5, entered by this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, Adrienne Miller (“Plaintiff”), is a resident and citizen of Scottsdale, Maricopa County, Arizona 85258, and claims damages as set forth below.

3. Federal jurisdiction is proper based on diversity of citizenship.

4. The Federal District in which Plaintiff's initial implant took place: United States District Court for the District of Arizona.

5. The Federal District in which Plaintiff's revision surgery took place: United States District Court for the District of Arizona.

6. Plaintiff brings this action on behalf of herself, individually.

### **FACTUAL ALLEGATIONS**

7. On or about July 6, 2011, Plaintiff underwent surgery during which a Smith & Nephew BHR Resurfacing System was implanted into Plaintiff's left hip.

8. Plaintiff's left BHR implant surgery was performed at HonorHealth Scottsdale Healthcare Shea Medical Center in Scottsdale, Arizona, by orthopedic surgeon Theodore P. Firestone, M.D.

9. Plaintiff underwent a medically-indicated revision of the left BHR hip implant on or about December 5, 2018.

10. Plaintiff's revision surgery was performed by orthopedic surgeon Theodore P. Firestone, M.D., at HonorHealth Scottsdale Thompson Peak Medical Center in Scottsdale, Arizona.

11. Plaintiff suffered the following complications, injuries, and/or indications, some or all of which made revision surgery medically necessary: pain in and around her left hip joint, squeaking, limp, and sleep interruption.

12. Plaintiff adopts the allegations of the Master Amended Consolidated Complaint ("MACC") filed August 11, 2017, and any and all amendments to the MACC.

### **ALLEGATIONS AS TO INJURIES**

13. (a) Plaintiff claims damages as a result of (check all that are applicable):

X INJURY TO HERSELF/HIMSELF  
       INJURY TO THE PERSON REPRESENTED  
       WRONGFUL DEATH  
       SURVIVORSHIP ACTION  
X ECONOMIC LOSS

14. Defendant, by its actions or inactions, proximately caused the injuries to Plaintiff.

### **DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

15. The following claims and allegations are asserted by Plaintiff and are herein adopted by reference under the laws of the following state: Arizona

X COUNT I (Strict Products Liability, Design Defect and Failure to Warn)

Specific state common law and statutory law that applies: Arizona

X COUNT II (Negligence)

Specific state common law and statutory law that applies: Arizona

X COUNT III (Negligent Failure to Warn)

Specific state common law and statutory law that applies: Arizona

X COUNT IV (Negligence *Per Se*)

Specific state common law and statutory law that applies: Arizona

X COUNT V (Negligent Misrepresentation)

Specific state common law and statutory law that applies: Arizona

X COUNT VI (Breach of Express Warranty)

Specific state common law and statutory law that applies: Arizona

X COUNT VII (Breach of Implied Warranty)

Specific state common law and statutory law that applies: Arizona

X COUNT VIII (Unfair Trade Practices and Consumer Protection)

Specific state common law and statutory law that applies: Arizona

X COUNT IX (Fraudulent Concealment)

Specific state common law and statutory law that applies: Arizona

X COUNT X (Manufacturing Defect)

Specific state common law and statutory law that applies: Arizona

X COUNT XI (Punitive Damages)

Specific state common law and statutory law that applies: Arizona

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement; and
7. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all claims in Complaint so triable.

Dated: June 25, 2020.

Respectfully submitted,

/s/ George E. McLaughlin

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 25th day of June 2020, I caused the foregoing Direct-Filed Short Form Complaint, to be served via the Electronic Case Filing (ECF) system in the United States District Court for the District of Maryland, on all parties registered for CM/ECF in the above-captioned matter.

/s/ *George E. McLaughlin*  
George E. McLaughlin